Beat: News

EU protection of journalists

human rights defenders from abusive

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USPA NEWS - The European Commission is taking action to improve protection of journalists and human rights defenders from abusive court proceedings. Strategic lawsuits against public participation, commonly known as ‘SLAPPs', are a particular form of harassment used primarily against journalists and human rights defenders to prevent or penalise speaking up on issues of public interest.

The proposed Directive covers SLAPPs in civil matters with cross-border implications. It enables judges to swiftly dismiss manifestly unfounded lawsuits against journalists and human rights defenders. It also establishes several procedural safeguards and remedies, such as compensation for damages, and dissuasive penalties for launching abusive lawsuits. The Commission is also adopting a complementary Recommendation to encourage Member States to align their rules with the proposed EU law also for domestic cases and in all proceedings, not only civil matters. The Recommendation also calls on Member States to take a range of other measures, such as training and awareness raising, to fight against SLAPPs.

Vice-President for Values and Transparency, Vera Jourová said: “We promised to defend better journalists and human rights defenders against those that try to silence them. The new law does that. In a democracy, wealth and power cannot give anyone an advantage over truth. With these measures we are helping to protect those who take risks and speak up when the public interest is at stake – when they report for example on allegations of money laundering and corruption, environmental and climate matters or other issues that are important to us all.”

Commissioner for Justice, Didier Reynders, said: “The active exercise of the fundamental right to freedom of expression and information is key for a healthy and thriving democracy. The EU will always protect that right. Today, we are taking important steps to safeguard journalists and civil society who are increasingly under threat from SLAPPs. SLAPPs delay or even prevent the publication of statements of public interest SLAPPs also put an unnecessary burden on courts. We are now providing instruments to keep that abusive practice in check.”

Proposal for an EU law against SLAPPs

The proposed Directive provides courts and targets of SLAPPs with the tools to fight back against manifestly unfounded or abusive court proceedings. The proposed safeguards will apply in civil matters with cross-border implications. The safeguards are expected to benefit in particular journalists and persons or organisations engaged in defending fundamental rights and a variety of other rights, such as environmental and climate rights, women's rights, LGBTIQ rights, the rights of the people with a minority racial or ethnic background, labour rights or religious freedoms, but all persons engaged in public participation on matters of public interest are covered. The safeguards have been targeted to ensure the balance of access to justice and privacy rights with the protection of freedom of expression and information. The main elements of the proposal are:

- Early dismissal of a manifestly unfounded court proceedings – courts will be able to take an early decision to dismiss the proceedings if a case is manifestly unfounded. In such a situation, the burden of proof will be on the claimant to prove that the case is not manifestly unfounded;

- Procedural costs – it will be for the claimant to bear all the costs, including the defendant's lawyers' fees, if a case is dismissed as abusive;

- Compensation of damages – the target of SLAPP will have a right to claim and obtain full compensation for the material and immaterial damage;

- Dissuasive penalties – to prevent claimants from starting abusive court proceedings, the courts will be able to impose dissuasive penalties on those who bring such cases to the court.

- Protection against third-country judgements – Member States should refuse recognition of a judgment coming from a non-EU country, against a person domiciled in a Member State, if the proceedings would be found to be manifestly unfounded or abusive under the Member State's law. The target will also be able to ask for compensation of the damages and the costs in a Member State where he or she is domiciled in.

Recommendation for Member States

The Commission Recommendation also adopted today complements the Directive and encourages Member States to ensure that:

- National legal frameworks provide the necessary safeguards, similar to those at EU level, to address domestic cases of SLAPPs. This includes ensuring the procedural safeguards of an early dismissal of manifestly unfounded court proceedings. Member States would also need to ensure that their rules applicable to defamation, which is one of the most common grounds for launching SLAPPs, do not have an unjustified impact on the freedom of expression, on the existence of an open, free and plural media environment, and on public participation.

- Training is available for legal professionals and potential SLAPP targets to improve their knowledge and skills to effectively deal with these court proceedings. The European Judicial Training Network (EJTN) will be involved to ensure coordination and that information is disseminated in all Member States;

- Awareness raising and information campaigns are organised, so that journalists and human rights defenders do recognize when they are facing a SLAPP;

- Targets of SLAPP have access to individual and independent support, such as from law firms that defend SLAPP targets pro bono;

- Aggregated data collected at national level on manifestly unfounded or abusive court proceedings against public participation is reported to the Commission on a yearly basis, starting as of 2023.

Next Steps

The proposed Directive will have to be negotiated and adopted by the European Parliament and the Council before it can become EU law.

The Commission Recommendation is directly applicable. Member States will need to report on implementation to the Commission 18 months after adoption of the Recommendation.

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